

**Letter of Findings: 01-20170191
Adjusted Gross Income Tax
For the Year 2013**

NOTICE: IC § 6-8.1-3-3.5 and IC § 4-22-7-7 require the publication of this document in the Indiana Register. This document provides the general public with information about the Department's official position concerning a specific set of facts and issues. This document is effective as of its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register. The "Holding" section of this document is provided for the convenience of the reader and is not part of the analysis contained in this Letter of Findings.

HOLDING

Married couple had an adjustment to their federal income tax for 2013 that also increased their Indiana adjusted gross income tax for the year 2013, thus the Department's proposed assessment was correct.

ISSUES

I. Adjusted Gross Income Tax—Federal Adjustment.

Authority: IC § 6-8.1-5-1; IC § 6-3-1-3.5; Dept. of State Revenue v. Caterpillar, Inc., 15 N.E.3d 579 (Ind. 2014); Indiana Dept. of State Revenue v. Rent-A-Center East, Inc., 963 N.E.2d 463 (Ind. 2012); Lafayette Square Amoco, Inc. v. Indiana Dept. of State Revenue, 867 N.E.2d 289 (Ind. Tax Ct. 2007).

Taxpayers protest the imposition of Indiana individual income tax.

STATEMENT OF FACTS

Taxpayers, a married couple, were subject to a federal adjustment to their 2013 taxes. Due to that federal adjustment, there were also adjustments made by the Indiana Department of Revenue ("Department") to Taxpayers' 2013 Indiana income tax. Those adjustments resulted in a proposed assessment for 2013 Indiana income taxes. Taxpayers filed a protest with the Department regarding the proposed assessment for 2013. An administrative hearing was held on the matter, and this Letter of Findings results. Further facts will be supplied as required.

I. Adjusted Gross Income Tax - Federal Adjustment.

DISCUSSION

As a threshold issue, it is Taxpayer's responsibility to establish that the existing tax assessment is incorrect. As stated in IC § 6-8.1-5-1(c), "The notice of proposed assessment is prima facie evidence that the department's claim for the unpaid tax is valid. The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made." Indiana Dept. of State Revenue v. Rent-A-Center East, Inc., 963 N.E.2d 463, 466 (Ind. 2012); Lafayette Square Amoco, Inc. v. Indiana Dept. of State Revenue, 867 N.E.2d 289, 292 (Ind. Tax Ct. 2007). Consequently, a taxpayer is required to provide documentation explaining and supporting his or her challenge that the Department's position is wrong. Further, "[W]hen [courts] examine a statute that an agency is 'charged with enforcing. . . [courts] defer to the agency's reasonable interpretation of [the] statute even over an equally reasonable interpretation by another party.'" Dept. of State Revenue v. Caterpillar, Inc., 15 N.E.3d 579, 583 (Ind. 2014). Thus, all interpretations of Indiana tax law contained within this decision, as well as the preceding audit, shall be entitled to deference.

Taxpayers protest the imposition of Indiana adjusted gross income tax for the 2013 tax year. As a result of a federal adjustment, the Department—pursuant to IC § 6-3-1-3.5—also made an adjustment to Taxpayers' Indiana income tax for 2013. At the hearing the husband stated that he had previously been married, and that as a result of his divorce he had alimony payments for 2013. Taxpayer stated that his tax preparer at the time gave him erroneous tax advice regarding the alimony payments that he made, which resulted in the Internal Revenue Service (IRS) conducting an audit that resulted in federal adjustments. Taxpayers' protest letter states that the "audit was performed several years ago" and that when he previously received notice from the Department that he owed additional Indiana income tax he paid the assessment. Taxpayer included a photocopy of a check from

2015 to show that he had already paid Indiana the additional income tax. However, the Department notes that the 2015 photocopied check that Taxpayer provided was for an assessment for the year 2011. At issue presently is Indiana income tax for the year 2013, thus the prior payment for the year 2011 is not applicable to the case at hand.

Taxpayers' argument is that they previously paid the proposed assessment for the year 2013. As explained above, that argument is not correct. Taxpayers previously paid a proposed assessment for the year 2011. Taxpayers do not develop any other arguments regarding the assessment, thus Taxpayers have not met their burden of proof under IC § 6-8.1-5-1(c).

FINDING

Taxpayers' protest is respectfully denied.

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